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CASE NAME: AFFORDABLE HOUSING IMPACT FEE

WHEREAS, recent court rulings restrict the city's ability to apply inclusionary requirements to rental units in the absence of a financial or regulatory incentive or concession and a contractual agreement (*Palmer/Sixth Street Properties, L.P. v. City of Los Angeles*) and impact how the city can impose fees to assist with the development of affordable housing (*Building Industry Association of Central California v. City of Patterson*); and

WHEREAS, at a March 20, 2012 workshop, the City Council discussed these court decisions affecting affordable housing production as well as Carlsbad demographic and land use trends that point to an increase in multi-family construction, including apartments, along with a strong rental market and developer-interest in converting non-residential lands to high density apartment sites; and

1 WHEREAS, based on the workshop discussion, the City Council directed  
2 staff to return with proposals to address the city's inability to apply inclusionary  
3 requirements to rental housing, including a proposal that would present for City Council  
4 consideration a nexus study to establish a rental housing impact fee; and  
5  
6

7 WHEREAS, staff has hired consultant Keyser Marston Associates, Inc. to  
8 prepare the nexus study, which the consultant has completed and which is attached to  
9 this resolution; and  
10

11 WHEREAS, the study, entitled "Affordable Housing Impact Fee Nexus  
12 Study" and dated September 2013, quantifies the linkages between new market-rate  
13 rental units and the demand for affordable housing and contains a detailed supporting  
14 analysis, the conclusion of which reflects the maximum mitigation impact fee supported  
15 to offset affordable housing demand caused by the development of market-rate rental  
16 housing; and  
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20 WHEREAS, in addition to a maximum supportable impact fee, the nexus  
21 study also recommends (1) a lesser fee that leaves a margin between the lesser fee  
22 and the maximum established by the nexus analysis to allow for minor changes to the  
23 many inputs, assumptions, and calculations employed in the nexus analysis while  
24 assuring that the adopted fee remains below the maximum supported nexus amount  
25 and (2) and potential indices for adjustments to the fee level in the future based on the  
26 rise and fall of construction and other costs; and  
27  
28

WHEREAS, the fee would be imposed as a condition of development  
approval; and

WHEREAS, the Housing Commission did on **September 19, 2013**, hold a  
duly noticed public meeting as prescribed by law to consider the nexus study and the  
proposed affordable housing impact fee; and

1 WHEREAS, at said public meeting, upon hearing and considering all  
2 testimony and arguments, if any, of all persons desiring to be heard, said Commission  
3 considered all factors relating to the nexus study and the proposed affordable housing  
4 impact fee.  
5

6  
7 NOW, THEREFORE, BE IT HEREBY RESOLVED by the Housing  
8 Commission as follows:  
9

- 10 A) That the foregoing recitations are true and correct.
- 11 B) That based on the evidence presented at the public meeting, the  
12 Commission recommends the City Council **ACCEPT** the "Affordable  
13 Housing Impact Fee Nexus Study" prepared by Keyser Marston  
14 Associates, Inc and dated September 2013; and **APPROVE** (1) an  
15 affordable housing impact fee, not to exceed \$20 per square foot, to be  
16 paid by developers of market-rate rental housing to offset the affordable  
17 housing demand caused by the construction of market-rate rental housing  
18 and (2) the "Construction Costs Index" (CCI) published by Engineering  
19 News Record as the index (with no ceiling) for fee level adjustment, all  
20 based on the following findings.

21 **Findings:**

- 22 1. The "Affordable Housing Impact Fee Nexus Study" dated September 2013 and  
23 prepared by Keyser Marston Associates, Inc., quantifies the linkages between  
24 new market-rate rental units and the demand for affordable housing and, through  
25 these linkages and the detailed and appropriate analysis, conclusions and  
26 recommendations, provides the necessary evidence to support the application of  
27 an affordable housing impact fee to developers of market-rate rental projects.
- 28 2. The city is mandated by state law to provide housing opportunities for persons of  
all incomes, with an emphasis on persons with lower incomes; in fact, the  
Regional Housing Needs Assessment identifies the need for 1,605 homes for  
persons with very low and low incomes during the 2013-2021 housing cycle. The  
city's application of its inclusionary housing requirements is a primary and an  
effective means of achieving "affordable housing," or housing with rents and  
sales prices affordable to persons with lower incomes. In light of court rulings that  
restrict Carlsbad's ability to apply inclusionary housing requirements to rental  
projects, application of the recommended affordable housing impact fee to  
developers of market-rate rental projects will help restore the city's ability to  
achieve affordable housing. This is consistent with the Housing Element, which  
seeks to provide new housing with diversity in terms of price and tenure and in  
sufficient quantity to accommodate anticipated growth.
3. As discussed at the March 20, 2012 City Council workshop, Carlsbad  
demographic and land use trends point to an increase in multi-family  
construction, including apartments, along with a strong rental market and

1 developer-interest in converting non-residential lands to apartment sites;  
2 furthermore, the discussion identified that the majority of residential land in  
3 Carlsbad has been developed or planned, shrinking the opportunity for the city to  
4 apply its inclusionary requirements and realize affordable housing gains.  
5 Application of the recommended affordable housing impact fee to developers of  
6 market-rate rental projects will help achieve affordable housing from future  
7 apartment developments that are not otherwise subject to inclusionary  
8 requirements.

- 9
- 10 4. The recommended affordable housing impact fee of \$20 per square foot is below  
11 the maximum supportable impact fee as identified in the nexus study and thus  
12 allows for minor changes to the many inputs, assumptions, and calculations  
13 employed in the nexus analysis while assuring that the adopted fee remains  
14 below the maximum supported nexus amount.
- 15 5. Charging the fee on a per square foot versus per unit basis ensures fee equity  
16 regardless of unit size and may encourage smaller units, which could improve  
17 housing affordability.
- 18 6. The "Construction Costs Index" (CCI) published by Engineering News Record,  
19 the proposed index (with no ceiling) for fee level adjustment, has been  
20 recommended by the city's Administrative Services Director and is a commonly  
21 used as an escalator on other city impact fees.

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PASSED, APPROVED, AND ADOPTED at a special meeting of the  
Housing Commission of the City of Carlsbad, held on **September 19, 2013**, by the  
following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
BOBBIE SMITH, CHAIRPERSON  
CARLSBAD HOUSING COMMISSION

ATTEST:

\_\_\_\_\_  
DEBBIE K. FOUNTAIN  
DIRECTOR OF HOUSING AND NEIGHBORHOOD SERVICES